DELAWARE DEPARTMENT OF INSURANCE

MARKET CONDUCT EXAMINATION REPORT

Capital Rx Inc.

Exam Authority # PBM027-23-635
228 Park Ave South, Suite 87324
New York, NY 10003

As of

June 30, 2023

TRINIDAD NAVARRO
COMMISSIONER

STATE OF DELAWARE
DEPARTMENT OF INSURANCE

I, Trinidad Navarro, Insurance Commissioner of the State of Delaware, do hereby certify that the attached REPORT ON EXAMINATION, made as of June 30, 2023 on

Capital Rx Inc.

is a true and correct copy of the document filed with this Department.

Attest By: _____

Insurance Commissioner of the State of Delaware

In Witness Whereof, I have hereunto set my hand and affixed the official seal of this Department at the City of Dover, this 21 day of January, 2026.

_____
Trinidad Navarro
Insurance Commissioner

TRINIDAD NAVARRO
COMMISSIONER

STATE OF DELAWARE
DEPARTMENT OF INSURANCE

REPORT ON EXAMINATION

OF THE

Capital Rx Inc.

AS OF

June 30, 2023

The above-captioned Report was completed by examiners of the Delaware Department of Insurance.

Consideration has been duly given to the comments, conclusions and recommendations of the examiners regarding the status of the Company as reflected in the Report.

This Report is hereby accepted, adopted and filed as an official record of this Department.

In Witness Whereof, I have hereunto set my hand and affixed the official seal of this Department at the City of Dover, this 21 day of January, 2026.

Trinidad Navarro
Insurance Commissioner

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Honorable Trinidad Navarro
Insurance Commissioner
State of Delaware
1351 West North Street, Suite #101
Dover, Delaware 19904

Dear Commissioner Navarro:

In compliance with the instructions contained in Exam Authority # PBM027-23-635, and pursuant to statutory provisions including 18 *Del. C.* §§ 318-322, a market conduct examination has been conducted of the affairs and practices of:

Capital Rx Inc.

The examination was performed as of June 30, 2023.

The exam was performed off-site. The off-site examination phase was performed at the offices of the Delaware Department of Insurance, hereinafter referred to as the Department or DDOI, or other suitable locations.

The report of examination herein is respectfully submitted.

EXECUTIVE SUMMARY

Capital Rx Inc. (Company) is a Pharmacy Benefit Manager (PBM) licensed in Delaware with main administrative offices located at 228 Park Avenue South, Suite 87324 New York, NY 10003.

The regulation of PBMs by state insurance departments was established on July 17, 2019. As such, the Delaware Department of Insurance (DDOI) announced a series of examinations of PBMs doing business in Delaware. The purpose was to ensure the companies were aware of all DOI regulations related to PBMs, and to determine if they were in compliance or developing policies and procedures to comply. The examination of the Company was announced as part of said series of examinations. The examination focused on the Company's compliance with 18 *Del C.* 33A. Pharmacy Benefits Managers and affiliated Delaware statutes, rules and regulations related to Company reimbursement practices for both fully insured and self-funded business. Functional areas to be reviewed include Company Operations and Management, Maximum Allowable Cost, Complaints, MAC Appeals/Dispute Resolution, Pharmacy Audits, Pharmacy Transactions, Pharmacy Reimbursement, Rebates, DIR/Charges/Fees, Financial Statements, Pharmacy Provider Enrollments, Pharmacy Provider Terminations, Pharmacy Provider Non-Renewals, Advertising, Contracts, Discount cards and Specialty Drugs.

The following is a summary of exceptions noted during the course of this examination and are noted in the order disclosed in body of this Report.

- **1 Exception**
  18 *Del. C.* § 3362A(b). Pharmacy benefits manager network.
  (b) A pharmacy benefits manager may not deny a pharmacy the opportunity to participate in a pharmacy benefits manager network at preferred participation status if the pharmacy is willing to accept the terms and conditions that the pharmacy benefits manager has established for other pharmacies as a condition of preferred network participation status.

  Provider Manual and Contracts include language that limits participation in the Company's networks for Delaware pharmacies.

- **18 Exceptions**
  18 *Del. C* § 3372A(7) Prohibited practices
  A pharmacy benefits manager or representative of a pharmacy benefits manager may not do any of the following:
  > *(7) Pay or reimburse a pharmacy or pharmacist for the ingredient drug product component of pharmacist services less than the national average drug acquisition cost, or if the national average drug acquisition cost is unavailable, the wholesale acquisition cost.*

  Five claims were identified as paid with an amount reimbursed to the pharmacy at less than the national average drug acquisition cost (NADAC); and an additional 13 claims

were reimbursed at a lower rate than wholesale acquisition cost (WAC) when NADAC price was not available.

- **1 Exception**
  18 *Del. C.* § 3324A(e). Appeals
  (e) A pharmacy benefits manager shall make available on its website information about the appeal process, including all of the following:
  (1) A telephone number at which the contracted pharmacy may contact the department or office responsible for processing appeals for the pharmacy benefits manager to speak to an individual specifically or leave a message for an individual or office who is responsible for processing appeals.
  (2) An email address of the department or office responsible for processing appeals to which an individual who responsible for processing appeals has access.

  The required audit appeal information was not included in the Company's website.

- **1 Exception**
  18 *Del. C.* § 3304A. Procedure and process for conducting and reporting an audit
  (a) Audit procedures. — Unless otherwise prohibited by federal requirements or regulations, any entity conducting a pharmacy audit must adhere to the following procedures:
  (1) A pharmacy must be given notice 14 days before an initial on-site audit is conducted.

  The Company's Audit Standard Operating Procedure (SOP) language was not in compliance with 18 *Del. C.* § 3304A, which requires a minimum of 14 days' notice of an on-site audit.

- **1 Exception**
  18 *Del. C.* § 3308A (a). Audit information and reports
  (a) A preliminary audit report must be delivered to the pharmacy within 30 days after the conclusion of the audit. The preliminary audit report shall contain claim level information for any discrepancy and an estimated recovery amount.

  The Company process and timeline for audited pharmacies to provide appeal supplemental documentation was not in compliance with 18 *Del. C.* § 3308A(a) which requires that the preliminary audit report must be delivered to the pharmacy within 30 days after the conclusion of the audit.

SCOPE OF EXAMINATION

The Market Conduct Examination was conducted pursuant to the authority granted by 18 Del. C. § 318-322 and covered the experience period of January 1, 2022, through June 30, 2023, unless otherwise noted. The examination reviewed the Company's activities related to pharmacy benefits. Attention focused on the Company's compliance with 18 Del C. 33A and affiliated

Delaware statutes, rules, and regulations. Functional areas to be reviewed include Company Operations and Management, Maximum Allowable Cost, Complaints, MAC Appeals/Dispute Resolution, Pharmacy Audits, Pharmacy Transactions, Pharmacy Reimbursement, Rebates, DIR/Charges/Fees, Financial Statements, Pharmacy Provider Enrollments, Pharmacy Provider Terminations, Pharmacy Provider Non-Renewals, Contracts, Discount Cards and Specialty Drugs.

METHODOLOGY

This examination was performed in accordance with Market Regulation standards established by the Department and examination procedures suggested by the NAIC. While examiners report on the errors found in individual files, the examiners also focus on general business practices of the Company. The Company was requested to identify the universe of files for each segment of the review. Based on the universe sizes identified, random sampling was utilized to select the files reviewed for this examination. Delaware Market Conduct Examination Reports generally note only those items to which the DDOI, after review, takes exception. An exception is any instance of Company activity that does not comply with an insurance statute or regulation. Generally, practices, procedures, or files that were reviewed by DDOI examiners during an examination may not be referred to in the Report if no improprieties were noted.

COMPANY HISTORY

Capital Rx was founded in 2017 and is a privately held company. In March of 2018, Capital Rx officially commenced operations and began servicing its first clients. The Company has a client base of employers, health plans, unions, public sector entities, school districts, higher education institutions, hospital and health systems, coalitions and TPAs.

The Company provides pharmacy benefit management and administrative services as well as offering discount card/prescription cards to clients. The Company also provides Medicare Prescription Payment Plan services to members.

Corporate headquarters are in New York, New York. Member enrollment currently exceeds 2 million contracted members for Medicare, Medicaid, and commercial plans. The entity has no physical location in Delaware but is licensed as a pharmacy benefit management company throughout the Country.

18 *DEL C.* 33A COMPLIANCE

Subchapter I

In accordance with the requirements of the examination, Company documentation was reviewed to ensure compliance with applicable state laws and regulations. The Company provided audit policies/standard operating procedures, a copy of the provider manual, as well as a fraud waste and abuse (FWA) policy for review. The Company also provided a list of audits

that occurred during the examination period. A sample of audits that were conducted during the examination period were reviewed for compliance.

See the Pharmacy Audit Summary for additional information regarding audit reviews.

Subchapter II

In accordance with the requirements of the examination, Company documentation was reviewed to ensure compliance with applicable state laws and regulations. The Company provided a copy of the provider manual, appeal process and procedure as well as a document outlining the Company's NADAC pricing model. It was noted that the provider manual includes the contact information (including Company address, telephone number and email address) for MAC Appeals and reimbursement issues. The Company also indicated that no MAC appeals or pharmacy reimbursement requests were submitted during the examination period.

The Company's website also included MAC Appeal/drug reimbursement contact information, appeal forms and instructions. It was noted that after communicating noted concerns with the Company during the examination, the Company revised its MAC Appeal policies/procedures, its website and MAC Appeal/reimbursement form language and removed the previously required acquisition cost data for DE pharmacies. This removal of required acquisition cost data and revisions of Company MAC appeal/reimbursement form conform with DE law.

It was also noted that the Company's pharmacy reimbursement policy and pricing model includes the primary use of NADAC and a secondary the use of AWP versus WAC for any drugs not paid at NADAC. The Company indicated in response to information requests that it reimburses at a higher rate at AWP versus WAC for these secondary source reimbursement scenarios. The higher reimbursement level was tested after reviewing a sample of 109 paid claims.

See Chapter 33A, VII Summary for additional information regarding pharmacy reimbursement.

Subchapter III

In accordance with the requirements of the examination, Company documentation was reviewed to ensure compliance with applicable state laws and regulations. The Company provided a copy of the provider manual for review of the affiliated compliance language. The responses to Coordinator Handbook requests indicate the majority of the Company business was self-funded. Only one fully insured plan was in effect during the exam period but was not a client in 2023 due to a dissolution of the plan.

No exceptions were noted.

Subchapter IV

In accordance with the requirements of the examination, Company documentation was reviewed to ensure compliance with applicable state laws and regulations. The Company provided a copy of its prior authorization form, process, as well as the prior authorization procedure/policy regarding chronic and long-term conditions. The responses to Coordinator

Handbook requests indicate the majority of the Company business was self-funded. Only one fully insured plan was in effect during the exam period but was not a client in 2023 due to a dissolution of the plan.

No exceptions were noted.

Subchapter V

In accordance with the requirements of the examination, Company documentation was reviewed to ensure compliance with applicable state laws and regulations. The Company provided a copy of its licensing, registrations, and reporting procedure for review. The responses to Coordinator Handbook requests indicate the majority of the Company business was self-funded. Only one fully insured plan was in effect during the exam period but was not a client in 2023 due to a dissolution of the plan.

No exceptions were noted.

Subchapter VI

In accordance with the requirements of the examination, Company documentation was reviewed to ensure compliance with applicable state laws and regulations. The Company provided a copy of provider manuals, contracts, provider licensing/registration and reporting procedures as well as a geo access reporting procedure to support compliance with Subchapter VI.

The following exception was noted.

1 Exception - 18 *Del. C.* § 3362A(b). Pharmacy benefits manager network.
(b) A pharmacy benefits manager may not deny a pharmacy the opportunity to participate in a pharmacy benefits manager network at preferred participation status if the pharmacy is willing to accept the terms and conditions that the pharmacy benefits manager has established for other pharmacies as a condition of preferred network participation status.

Although only one exception has been noted, the examiners identified the following three sections of the Company's Provider manual which include language that limits participation in the Company's networks for Delaware pharmacies.

The 2021 Provider Manual includes the following language regarding pharmacy network participation:

"Please note that Pharmacy's participation in one (1) or more of Capital Rx's Networks shall not guarantee participation in any or all Networks. Capital Rx reserves the right to limit Pharmacy or any of Pharmacy's locations in any network in its sole discretion or pursuant to Client direction."

This language is not in compliance with 18 *Del. C.* § 3362A(b). The Company has limited the opportunity for Delaware pharmacies to participate in PBM owned national networks (excluding Medicare, Medicaid and State or Federally funded plans) regardless of situs state of the policyholder's master contract.

Additionally, both the 2021 Provider Manual and the 2022 Provider Manual state the following:

"Notwithstanding anything to the contrary, Capital Rx reserves the right to create custom networks at any time during the term of the Agreement that may or may not include all or some of Pharmacy's locations at any time during the term of the Agreement."

This is not in compliance with 18 *Del. C.* § 3362A(b), which states the Company must not deny a pharmacy participation in the Company's networks at preferred participation status if the pharmacy is willing to accept the terms and conditions the Company has established for other pharmacies as a condition of preferred participation status.

In addition, the review of contract language related to participation in networks was noted in several contracts as follows:

"PHARMACY understands that PBM or a plan may create a custom network that may not include PHARMACY or all of its PHARMACY locations."

This language is not in compliance with 18 *Del. C.* § 3362A(b). The Company must not limit a Delaware pharmacy's participation in any client or PBM owned national network (excluding Medicare, Medicaid and State or Federally funded plans) regardless of situs state of the policyholder's master contract if the pharmacy is willing to accept the terms and conditions the Company has established for other pharmacies as a condition of preferred participation status.

It is noted the Company was made aware of these concerns during the course of the examination and as a result, revised their provider manual effective 7/1/2024 as well as revised the Retail Pharmacy Network Agreement to include a Delaware State Exhibit to address compliance with 18 *Del C.* § 3362A(b).

Recommendation:

It is recommended that the Company incorporate oversight processes and procedures to ensure compliance with 18 *Del C.* § 3362A(b).

Subchapter VII. Prohibited Practices; Penalties; Enforcement.

In accordance with the requirements of the examination, Company documentation was reviewed to ensure compliance with applicable state laws and regulations. The Company provided copies of the provider manual and pharmacy contracts to support compliance. The Company also provided pharmacy application/enrollment forms and a listing of paid claims which were sampled for review.

The following exceptions were noted.

18 Exceptions - § 3372A(7) Prohibited practices

A pharmacy benefits manager or representative of a pharmacy benefits manager may not do any of the following:

> (7) Pay or reimburse a pharmacy or pharmacist for the ingredient drug product component of pharmacist services less than the national average drug acquisition cost, or if the national average drug acquisition cost is unavailable, the wholesale acquisition cost.

The Company provided a listing of paid claims totaling a universe of 23,013. A random sample of 109 claims was selected for review. Upon review of paid claims data five claims were identified as paid with an amount reimbursed to the pharmacy at less than the national average drug acquisition cost (NADAC) and an additional 13 claims were reimbursed at a lower rate than wholesale acquisition cost (WAC) when NADAC price was not available.

In response to these reimbursement exceptions, the Company provided a reconciliation report that included all claims during the examination period that were initially paid below the required rate totaling 2,280 Delaware resident pharmacy claims. The Company reversed and processed these identified claims at the Delaware benchmark reimbursement level, which is no less than NADAC, or if no NADAC, WAC.

All 18 exceptions are retained as written.

Recommendation:

It is recommended that the Company revise its reimbursement practices to ensure compliance with 18 *Del C.* § 3372A(7). It is further recommended that the Company incorporate oversight processes and procedures to ensure reimbursement is compliant with Delaware statutes. including 18 *Del C.* § 3372A(7).

COMPANY OPERATIONS AND MANAGEMENT

Information related to Company Operations and Management was requested in the Coordinator's Handbook and was provided by the Company. The review focused on the Company's compliance with Delaware statutes, rules and regulations. The Company provided an overview of the Company's operations, history and profile, policies and procedures, provider manuals, provider contracts and reimbursement and rebate agreements as applicable. Functional areas related to Company Operations and Management were also reviewed with possible concerns and exceptions noted.

Capital Rx, Inc. Products and Services

The Company provided a list of products and services which included but limited to the following:

- Retail Pharmacy Services
- Mail Order Pharmacy Services

- Specialty Pharmacy Services
- Formulary Management Services
- Rebate Administrative Services
- Claims Processing and Payment
- Eligibility and Accumulator Services
- Customer Service
- Concurrent Drug Utilization Review Services
- Prospective Drug Utilization Review Services
- Recall Management Program
- Member Tools and Communications
- Reporting
- Account Management
- Claims Runout (Post Termination)
- Utilization Review Services
- Specialty Programs
- Custom Network Management
- Custom Formulary Management
- White Labeled Member Communications
- Recall Management
- Drug Management Program
- Restricted Recipient
- Medication Therapy Management
- Stars Dashboard
- Prescription Drug Disclosures
- Clinical Program Customizations
- Custom Drug List Management
- Specialty Carve Out Service Support
- Sponsor Requested Audit of Pharmacy
- Custom Fraud Wate and Abuse (FWA) Program
- Open Refill Transfer File (ORTF)
- Prior Authorization History File
- Accumulator History File
- Sponsor Audits

No exceptions were noted.

MAXIMUM ALLOWABLE COST

Company documentation was reviewed to ensure compliance with applicable state laws and regulations. The Company indicated in handbook responses that it utilizes the NADAC pricing model. Based on this approach the Company indicated that Maximum Allowable Cost is not applicable to its business or operations. The Company also provided a synopsis of its NADAC pricing model in support of its position. It was noted that the Company's pharmacy

reimbursement policy and pricing model includes the primary use of NADAC and a secondary use of AWP (Average Wholesale Price) versus WAC for any drugs not paid at NADAC.

The Company indicated that it reimburses at a higher rate at AWP versus WAC for these secondary source reimbursement scenarios. The higher reimbursement level was tested after reviewing a sample of 109 paid claims. It was noted that the provider manual includes the contact information (including Company Address, telephone number and email address) for MAC Appeals and reimbursement issues. The Company's website also included MAC Appeal/drug reimbursement contact information, appeal forms and instructions.

The Company indicated that no MAC appeals or pharmacy reimbursement requests were submitted during the examination period. It was also noted however that during review of MAC appeal and reimbursement policies, procedures and pharmacy forms, acquisition cost data was a required data field for DE pharmacies to submit for potential pharmacy fill/claim reimbursement.

After the concerns were brought to the Company's attention, the Company revised its MAC Appeal form as well as the Company website and MAC Appeal/reimbursement instructions. The Company indicated the following in response to the examiners related to this issue:

"The inclusion of Delaware was an error. Website has been corrected to remove "DE" from the list of required states."

This removal of the required acquisition cost data and revisions of the Company MAC appeal and reimbursement form now conform with DE requirements.

No exceptions were noted.

MEMBER COMPLAINTS

Company documentation was reviewed to ensure compliance with applicable state laws and regulations. The Company provided member complaint policies and procedures for review. The Company also indicated that there were no member complaints during the examination period.

No exceptions were noted.

PROVIDER COMPLAINTS

Company documentation was reviewed to ensure compliance with applicable state laws and regulations. The Company submitted copies of the provider's complaint policies and procedures for review. The Company indicated that provider complaints could be filed with the Capital Rx Provider Relations Team or phoned into the Company's Pharmacy Help Desk. The Company indicated that there were no provider complaints during the examination period.

No exceptions were noted.

MAC APPEALS/DISPUTE RESOLUTION

Company documentation was reviewed to ensure compliance with applicable state laws and regulations. The Company provided an overview of the MAC appeal process, NADAC pricing model information and the provider manual for review. The Company also indicated that no MAC appeals or pharmacy reimbursing requests were submitted during the examination period.

The Company's website also included MAC Appeal/drug reimbursement contact information, appeal forms and instructions. It was noted that after communicating the concerns with the Company during the course of the examination, the Company revised its MAC Appeal policies/procedures (as well as Company website and MAC Appeal/reimbursement form language) and removed the previously required acquisition cost data for DE pharmacies. This removal of required acquisition cost data and revisions of Company MAC appeal/reimbursement form conform with DE law.

Please refer to the MAC Appeal and CH 33A Subchapter II Summary for additional information.

PHARMACY AUDITS

Company documentation was reviewed to ensure compliance with applicable state laws and regulations. The Company provided audit policies and procedures, a copy of the provider manual as well as fraud investigation processes. The Company also provided a listing of audits conducted during the examination period in which a sample of 15 audits were selected and reviewed.

The following exceptions were noted.

1 Exception – 18 *Del. C.* § 3324A(e). Appeals

(e) A pharmacy benefits manager shall make available on its website information about the appeal process, including all of the following:

(1) A telephone number at which the contracted pharmacy may contact the department or office responsible for processing appeals for the pharmacy benefits manager to speak to an individual specifically or leave a message for an individual or office who is responsible for processing appeals.

(2) An email address of the department or office responsible for processing appeals to which an individual who responsible for processing appeals has access.

A review of the Company provided documentation entitled *Audit Notification and Appeal Process Number: CRX.PROVRELAT.010* indicates that in the event the pharmacy disagrees with the appeal results, a review can be requested via email or in writing.

Based on the review of the Company's website, the required audit appeal information within 18 *Del. C.* § 3324A(e) was not found.

It is noted the Company was made aware of these concerns during the course of the examination and as a result, updated the Company website with a direct telephone number for a contracted pharmacy to contact the Appeals Department directly and new email address to ensure compliance with 18 *Del. C.* § 3324A(e).

Recommendation:

It is recommended that the Company incorporate oversight processes and procedures to ensure compliance with 18 *Del. C.* § 3324A(e).

1 Exception - 18 *Del. C.* § 3304A. Procedure and process for conducting and reporting an audit

(a) *Audit procedures.* — Unless otherwise prohibited by federal requirements or regulations, any entity conducting a pharmacy audit must adhere to the following procedures:

(1) A pharmacy must be given notice 14 days before an initial on-site audit is conducted.

The Company indicated in the *General Pharmacy Audit Processes Standard Operating Procedure* (SOP) that an onsite audit is to be given 30 calendar days' notice (the document references "30 calendar notice"). The process language for 2, b and iii, indicates that "*pharmacy shall be provided a masked list of prescriptions with the last two numbers removed one week or more prior to the date of audit.* "

This language appears to indicate that the start of the audit within one week or more prior to start. This is not incompliance with 18 *Del. C.* § 3304A which requires a minimum of 14 days' notice.

It is noted the Company was made aware of these concerns during the course of the examination and as a result, updated the Company's Delaware Audit Process SOP (Standard Operating Procedure), Audit Notification and Appeal Process and General Pharmacy Audit Process SOP to ensure compliance with 18 *Del. C.* § 3304A (a)(1).

Recommendation:

It is recommended that the Company incorporate oversight processes and procedures to ensure compliance with 18 *Del. C.* § 3304A (a)(1).

1 Exception - 18 *Del. C.* § 3308A (a). Audit information and reports

(a) A preliminary audit report must be delivered to the pharmacy within 30 days after the conclusion of the audit. The preliminary audit report shall contain claim level information for any discrepancy and an estimated recovery amount.

The Company was requested to supply the timeline for audited pharmacies to provide appeal supplemental documentation. The Company indicated a general process of 30 days for a

provider to respond to the initial records request, and initial findings back to the provider within 60 days.

This is not in compliance with 18 *Del. C.* § 3308A(a) which requires that the preliminary audit report must be delivered to the pharmacy within 30 days after the conclusion of the audit.

It is noted the Company was made aware of these concerns during the course of the examination and as a result, updated the Company's Delaware Audit Process SOP, Audit Notification and Appeal Process and Provider Manual to ensure compliance with 18 *Del. C.* § 3308A(a).

Recommendation:

It is recommended that the Company incorporate oversight processes and procedures to ensure compliance with 18 *Del. C.* § 3308A(a).

PHARMACY TRANSACTIONS

Company documentation was reviewed to ensure compliance with applicable state laws and regulations. The Company provided for review, copies of provider contracts, provider manual documentation, and a list of paid and rejected claims processed during the examination period. It was also noted that the Company's pharmacy reimbursement policy and pricing model includes the primary use of NADAC and a secondary use of AWP versus WAC for any drugs not paid at NADAC. The Company indicated in response to information requests that it reimburses at a higher rate at AWP versus WAC for these secondary source reimbursement scenarios. The higher reimbursement level was tested after reviewing a sample of 109 paid claims.

See Chapter 33A Subchapter II and VII Summary for additional information regarding pharmacy transactions.

PHARMACY REIMBURSEMENT

Company documentation was reviewed to ensure compliance with applicable state laws and regulations. The Company provided for review, copies of provider contracts, provider manual documentation, and a list of paid and rejected claims processed during the examination period. It was noted that the Company's pharmacy reimbursement policy and pricing model includes the primary use of NADAC and a secondary the use of AWP versus WAC for any drugs not paid at NADAC.

Please see Chapter 33A, Subchapter II and VII Summary for additional information regarding the review of the claim's transactions and affiliated pharmacy reimbursement.

REBATES

Company documentation was reviewed to ensure compliance with applicable state laws and regulations. The Company provided documentation describing the rebate process including the use of a rebate aggregator. The responses to Coordinator Handbook requests indicate the majority of the Company business was self-funded. Only one fully insured plan was in effect during the exam period but was subsequently terminated. The Company also provided a list of claims data and clients which indicated that all business was self-funded with the exception of one plan which included only 127 fully insured claims during the examination period and was not a client in 2023 due to a dissolution of the plan.

No exceptions were noted.

DIR/CHARGES/FEES

Company documentation was reviewed to ensure compliance with applicable state laws and regulations. The Company indicated that they do not charge DIR (Direct and Indirect Remuneration) fees to clients or any other fees to any pharmacies (providers).

No exceptions were noted.

PHARMACY PROVIDER ENROLLMENTS

Company documentation was reviewed to ensure compliance with applicable state laws and regulations. The Company provided policies and procedures of the pharmacy enrollment process as well as credentialing requirements for enrollment of independent, chain and PSAO pharmacies.

The Company also provided a list of pharmacy's enrolled (including affiliated network information) from January 1, 2022, through June 30, 2023.

See CH 33A Subchapter VI Summary for additional information regarding provider enrollments.

PHARMACY PROVIDER TERMINATIONS

Company documentation was reviewed to ensure compliance with applicable state laws and regulations. The Company provided the pharmacy terminations and appeals standard operation procedure. The Company also confirmed there were no Delaware pharmacy terminations during the examination period.

No exceptions were noted.

PHARMACY PROVIDER NON-RENEWALS

Company documentation was reviewed to ensure compliance with applicable state laws and regulations. The Company provided a copy of its network pharmacy non-renewal and dispute policy for review. The Company also indicated that there were no pharmacy non-renewals during the examination period.

No exceptions were noted.

CONTRACTS

Company documentation was reviewed to ensure compliance with applicable state laws and regulations. The Company was requested to provide a listing of all pharmacy contracts between Capital Rx and independent retail pharmacies, national chain, Pharmacy Services Administrative Organizations (PSAO) representing pharmacies, mail-order and specialty pharmacies operating in Delaware. A sample of 19 contracts were selected for review. The provider manuals were also reviewed during the examination.

Please see Chapter 33A, Subchapter II and VII Summary for additional information regarding the contract reviews.

DISCOUNT CARDS

Company documentation was reviewed to ensure compliance with applicable state laws and regulations. The Company indicated that a free pharmaceutical discount program was active and available to plans and the public to receive discounted pricing on prescription drugs during the examination period. It was noted only two Capital RX plans encompassing 46 claims were related to discount card use during the examination period. Due to the limited nature of the claims' volume and use, no further review of the discount card program or related claims was performed.

No exceptions were noted.

SPECIALTY DRUGS AND PLANS

Company documentation was reviewed to ensure compliance with applicable state laws and regulations. The Company provided copies of provider manuals, pharmacy contracts and two separate lists of all specialty drugs available to plans/clients or policyholders during the examination period. The Company also provide a definition of specialty drugs in response to Coordinator Handbook requests.

See Chapter 33A, VII Summary for additional information regarding specialty drugs.

CONCLUSION

The recommendations made below identify corrective measures the Department finds necessary as a result of the exceptions noted in the Report. Location in the Report is referenced in parenthesis.

1. It is recommended that the Company incorporate oversight processes and procedures to ensure compliance with 18 *Del C.* § 3362A(b). (CH 33A, Subchapter VII)

2. It is recommended that the Company revise its reimbursement practices to ensure compliance with 18 *Del C.* § 3372A(7) It is further recommended that the Company incorporate oversight processes and procedures to ensure reimbursement is compliant with Delaware statutes. including 18 *Del C.* § 3372A(7). (CH 33A, Subchapter VII)

3. It is recommended that the Company incorporate oversight processes and procedures to ensure compliance with 18 *Del. C.* § 3324A(e). (Pharmacy Audits)

4. It is recommended that the Company incorporate oversight processes and procedures to ensure compliance with 18 *Del. C.* § 3304A(a)(1). (Pharmacy Audits)

5. It is recommended that the Company incorporate oversight processes and procedures to ensure compliance with 18 *Del. C.* § 3308A(a). (Pharmacy Audits)

The examination conducted by Joe Krug, Brian Tinsley, Sean Connolly, Jack Rucidlo, Jeffery Smith and Kirk Stephan is respectfully submitted.

Sean Connolly, CIE, MCM
Examiner-in-Charge
Market Conduct
Delaware Department of Insurance

I, Sean Connolly, hereby verify and attest, under oath, that the above is a true and correct copy of the examination report and findings of the market conduct examination submitted to the Delaware Department of Insurance pursuant to examination authority PBM027-23-635.

Sean Connolly, CIE, MCM